

§ 103.1

25 CFR Ch. I (4-1-00 edition)

103.51 Sale or assignment of guaranteed loans.

103.52 Records.

103.53 Suspension of lenders.

103.54 Probate.

103.55 Information collection.

AUTHORITY: 25 U.S.C. 1498.

SOURCE: 40 FR 12492, Mar. 19, 1975, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 103.1 Definitions.

As used in this part:

Applicant means one who applies for a guaranteed or insured loan.

Borrower means the Indian organization or individual Indian receiving a guaranteed or insured loan.

Commissioner means the Commissioner of Indian Affairs or his authorized representative.

Cooperative Association means an association of individuals organized pursuant to state, Federal, or tribal law for the purpose of owning and operating an economic enterprise for profit with profits distributed or allocated to patrons who are members of the organization.

Corporation means an entity organized as a corporation pursuant to state, Federal, or tribal law, with or without stock for the purpose of owning and operating an economic enterprise.

Default means failure of a borrower to:

- (1) Make scheduled payments on a loan when due,
- (2) Obtain the lender's approval for disposal of assets mortgaged as security for a loan, or
- (3) Comply with the covenants, obligations, or other provisions of a loan agreement.

Economic enterprise means any Indian-owned commercial, industrial, agricultural, or business activity established or organized for the purpose of profit, provided that eligible Indian ownership constitutes not less than 51 percent of the enterprise.

Equity means the borrower's residual ownership, after deducting all business debt, of tangible business assets used in the business being financed, on which a lender can perfect a first lien position.

Financing statement means the document filed or recorded in county or

state offices pursuant to the provisions of the Uniform Commercial Code notifying third parties that a lender has a lien on the chattels and/or crops of a borrower.

Guaranty means the obligation assumed by the United States to repay a specific percentage of a loan upon default of the borrower pursuant to the regulations in this part.

Indian means a person who is a member of an Indian tribe as defined in this part.

Insured loan means a loan made pursuant to an agreement approved by the Commissioner with a financial institution, under which an obligation is assumed by the United States to indemnify the lender for a percentage of the loss on loans, pursuant to the regulations in this part.

Interest subsidy means payments which may be made by the United States to lenders making guaranteed or insured loans to reduce the interest rate which borrowers pay the lenders to the rate established pursuant to section 104 of the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.).

Mortgage means a mortgage or deed of trust evidencing an encumbrance of land, a mortgage or security agreement executed as evidence of a lien against crops and chattels, and a mortgage or deed of trust evidencing a lien on leasehold interests.

Organization means the governing body of any Indian tribe or entity established or recognized by such governing body for the purpose of the Indian Financing Act.

Partnership means a form of business organization in which two or more persons are associated as co-owners for the purposes of business or professional activities for private pecuniary gain organized under tribal, state, or Federal law.

Premium means the charges paid by lenders for the guaranty or insurance of loans under provisions for reimbursement of lenders by the United States for a percentage of losses incurred.

Reservation means Indian reservation, California rancheria, public domain Indian allotment, former Indian reservation in Oklahoma, and land held by Alaska Native groups incorporated

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under the provisions of the Alaska Native Claims Settlement Act (85 Stat. 688), as amended.

Secretary means the Secretary of the Interior.

Tribe means any Indian tribe, band, nation, rancheria, pueblo, colony or community, including any Alaska Native village or any regional, village, or urban or group corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) as amended which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

[57 FR 46472, Oct. 8, 1992]

§ 103.2 Purpose.

(a) The purpose of this part 103 is to prescribe the terms, conditions and provisions under which loans made to eligible tribes, Indian organizations and individual Indians for financing economic enterprises which contribute beneficially to the economy of an Indian reservation or for housing on a reservation may be guaranteed or insured by the United States. Lenders are reimbursed for a percentage of a loss or losses incurred on loans made under the provisions of this part 103, as evidenced by an approved guaranty certificate or insurance agreement.

(b) It is also the purpose of this part 103 to prescribe procedures for payment of an interest subsidy to lenders making guaranteed or insured loans to reduce the interest to be paid by the borrowers, for establishing loan guaranty and insurance premiums to be charged, and for collection of the premium. This program will provide Indians with additional sources of financing needed to develop and manage their reservation resources to a higher degree.

§ 103.3 Kinds of loans.

(a) Loans to tribes, eligible Indian organizations, and Indian individuals for financing economic enterprises which contribute to the economy of a reservation or its members or for housing on a reservation to be occupied by the borrower may be guaranteed or insured. Housing loans may be guaranteed or insured only after a determination has been made by the Commissioner that other sources of financing are not

available to the applicant on reasonable terms and conditions.

(b) Loans to tribes and organizations for the purchase of land may be guaranteed or insured only for purchasing land within the exterior boundaries of a reservation or land outside the exterior boundaries of a reservation which will be used by the borrower and/or its members for an economic enterprise which will contribute to the economy of a reservation. Loans to individuals may be guaranteed or insured for purchasing trust or restricted land in which the borrower owns an interest or land within the exterior or outside the exterior boundaries of a reservation. In all instances, the land must be used by the borrower in operating an economic enterprise which will contribute to the economy of a reservation. The Commissioner may require an applicant for a guaranteed or insured loan for the purchase of land to provide information showing that financing from other sources is not available on reasonable terms and conditions. Title to land purchased with a guaranteed or insured loan may be taken in trust or restricted status unless the land is located outside the boundaries of a reservation or a tribal consolidation area approved by the Secretary. Title to any land purchased by a tribe or an individual Indian which is outside the boundaries of a reservation or approved consolidation area may be taken in trust if the purchaser was the owner of a trust or restricted interest in the land before the purchase. Otherwise, title shall be taken in the name of the purchaser without any restrictions on alienation, control or use.

(c) Funds included in loans for the purchase of non-recoverable items, as well as furniture, passenger carrying automobiles, trucks or pickups, televisions, radios, and household appliances are not eligible for guaranty or insurance unless required in the direct operation of an economic enterprise. Funds included in loans for payment of personal bills or obligations are not eligible for guaranty or insurance. Funds included in loans for payment of unsecured debts may be guaranteed or insured only if justified, due to the applicant's financial position and clearly to